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REMARKS

Applicant respectfully requests reconsideration of the above-identified patent application. Claims 1-2 and 4-8 remain in the application. Claims 1 and 6 are amended and claim 9 is added to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant respectfully traverses the rejections under Section 103 as conceivably applied to the amended claims.

I. Interview

Applicant thanks Examiner Fetsuga for the courtesies extended to Applicant's attorney during the June 20, 2005 telephone interview. During the interview, claims 1-8 were discussed in view of the applied references. The Examiner suggested that one possible way to define over the applied references is to add a recitation of a plastic core that does not include foam in the openings between the spaced ribs. Claim 9 is added to recite a plastic core wherein the openings are filled with air.

II. Non-art Objections

As originally filed, the Drawings were objected to because of a number of informalities. Applicant submits that the amendments to the Specification and the enclosed Replacement Sheet including amended Fig. 2 overcome these objections.

As originally filed, the Specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Applicant has amended the Specification to provide antecedent basis for the claimed subject matter, and submits that the objections to the

Specification are therefore overcome. The specification also is corrected to conform to the drawing by stating that each lateral portion is a single piece rather than the entire cover. Finally, the specification is amended to reflect that a single embodiment is shown in Figs. 1-2 and 4, with an alternative embodiment (including insulation) shown in Fig. 3. It is respectfully submitted that the amendments do not introduce new matter as prohibited by 35 U.S.C. 132(a).

III. Invention Summary

The present invention is directed to a long lasting, structural, non-water absorbent cover for a hot tub or spa that overcomes the water absorption, deterioration, and safety issues associated with prior art hot tub covers with polystyrene cores. As defined in amended independent claims 1 and 6, the cover includes a structural, non-water absorbing, plastic core and a water resistant jacket enclosing the core. At least a portion of the core is a single piece of plastic. For instance, each core half may be a single piece of plastic that includes upper and lower walls spaced from one another and a plurality of spaced ribs extending between the upper and lower walls. As recited in claim 1, the spaced ribs define a plurality of openings or spaces therebetween. As recited in claim 8, the upper wall slopes downwardly from a central portion to an outer edge.

IV. Art Rejections

A. Section 103 Rejection on the Basis of Christopher and Edgar

As previously presented, claims 1 and 4-8 were rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent 5,086,525 to Christopher and U.S. Patent 3,697,633 to

Edgar. Applicant respectfully traverses this rejection as applied to the amended independent claims.

Christopher is typical of the prior art hot tub covers (described in the Background of the Invention) and problems that it is the express purpose of the present invention to overcome. Specifically, the Christopher cover includes a polystyrene insert 40 enclosed by expanded vinyl. These panels are problematic in that the polystyrene insert can absorb water over time, often weakening the foam and causing the cover to sag. Safety issues can result, for instance, when children play on a hot tub cover that has a deteriorated or water logged core due to the increased risk of falling through the cover.

Edgar is directed to a structural core including a rigid frame that is filled with an expanded foam. The frame is constructed by attaching a plurality of members of wood or another rigid material together to form a border. Col. 7, lines 28-30; col. 8, lines 57-60. The Abstract states that the structural core “is useful in doors, walls, floors, roofs, etc. in buildings and in furniture and other structures outside the building industry.” The Specification further states that “the structural cores can be used for the mass manufacture of lightweight panels for many uses. The panels may be used as table tops, counter tops, furniture panels, and any other items which have laminations of expanded polymer composition with veneers, metal plates, sheets, or other coverings including shaped or flat panels.” Col. 7, lines 1-7.

With respect to amended independent claims 1 and 6, Christopher and Edgar, either alone or in combination, do not disclose a plastic core, wherein at least a portion of the

core is a single piece of plastic, the portion including upper and lower walls spaced from one another and a plurality of spaced ribs extending therebetween. The insert of Christopher is solid foam – it does not include upper and lower walls and a plurality of spaced ribs. The core of Edgar has upper and lower walls, but they are comprised of a plurality of frame or border members, not a single, unitary piece. With respect to claim 6, the references do not additionally disclose the upper wall sloping downwardly from the central portion to the outer edge.

In addition, even if the references could be combined or modified to achieve the present invention, there is no basis in the applied references or the art in general for combining Christopher and Edgar. “Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). “The mere fact that the references can be combined or modified does not render the resultant combination obvious, unless the prior art also suggests the desirability of the combination.” *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000); *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). MPEP 2143.01.

Christopher teaches a polystyrene core that may deteriorate and weaken over time due to the absorption of water. Edgar teaches a structural panel with a multi-piece core particularly for use in the building or furniture industry. Edgar does not teach or suggest a portion of the core being comprised of a single, unitary piece, instead Edgar recites that its construction is advantageous in the increase of manufacturing efficiency. Col. 3, lines 1-43.

Additionally, there is nothing, other than impermissible hindsight, to suggest that the structural core of Edgar could be substituted into a hot tub cover for the foam core of Christopher to solve the problems addressed by the present invention. Finally, with respect to claim 9, neither reference teaches or suggests a plurality of air filled openings for enhancing thermal properties of a hot tub cover.

B. Section 103 Rejection on the Basis of Christopher, Edgar and Howatt

As previously presented, claims 1, 2 and 4-8 were rejected under 35 U.S.C. 103 as being unpatentable over Christopher and Edgar as applied to claim 1, and further in view of U.S. Patent 3,970,324 to Howatt. Applicant respectfully traverses this rejection as conceivably applied to the amended claims.

Howatt discloses a foam-filled, cellular structural product for use in the manufacture of snow skis. A cellular core 10 is formed by laminating a plurality of thin sheets (see Fig. 1), spot-gluing the sheets together by staggered applications of glue, and then pulling the unglued portions apart. Col. 3, lines 21-37.

With respect to amended independent claims 1 and 6, Howatt does not supplement the above noted inadequacies of Christopher and Edgar. First, like Edgar and Christopher, Howatt does not disclose a plastic core, wherein a portion of the core is a single piece of plastic having top and bottom walls and a plurality of ribs extending therebetween. Howatt discloses a cellular core that is comprised of multiple laminated pieces of strip material that are spot-glued together. Second, Howatt does not teach or suggest substituting its core for

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the core of a hot tub cover, or any reason why its core would solve the problems of water absorption and deterioration that are overcome by the present invention.

Because the applied references do not disclose, teach or suggest the subject matter of independent claims 1 and 6, Applicant submits that the rejections based on Section 103 are unfounded and/or overcome.

V. Dependent Claims

The dependent claims depend from amended independent claims 1 and 6 and are therefore even more clearly allowable. Claim 2 recites a core having two halves, each half being a single unitary piece. Claims 4 and 8 recite an insulated foam within the openings between the spaced ribs. Claim 5 recites that each half includes a hinged edge and a peripheral edge, the upper wall sloping downwardly from the hinged edge to the peripheral edge. Claim 7 recites that the cover is hinged in the central portion, whereby the cover can be folded approximately in half. Claim 9 recites that the openings between the ribs are filled with air.

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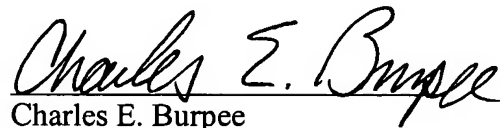
VI. Conclusion

In view of the above amendments and remarks, Applicant respectfully submits that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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